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JOHN F. DAVIS, CLERK

IN THE

Supreme Court of the United States

OCTOBER TERM, 1969

No. ~~1680~~ 153

ELEANOR TAFT TILTON, ET AL,

Appellants,

vs.

ROBERT H. FINCH, Secretary of the United States Department of Health, Education and Welfare, JAMES E. ALLEN, JR., Commissioner of Education of the United States, MARVIN K. PETERSON, Chairman of the Commission on Aid to Higher Education of the State of Connecticut, SACRED HEART UNIVERSITY, ANNHURST COLLEGE, FAIRFIELD UNIVERSITY, ALBERTUS MAGNUS COLLEGE,

Appellees

On Appeal from a Three-Judge United States District Court for the District of Connecticut

MEMORANDUM FOR APPELLEE MARVIN K. PETERSON, CHAIRMAN OF THE COMMISSION ON AID TO HIGHER EDUCATION OF THE STATE OF CONNECTICUT

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IN THE

Supreme Court of the United States

OCTOBER TERM, 1969

No. 1555

ELEANOR TAFT TILTON, ET AL,

Appellants,

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ROBERT H. FINCH, Secretary of the United States Department of Health, Education and Welfare, JAMES E. ALLEN, JR., Commissioner of Education of the United States, MARVIN K. PETERSON, Chairman of the Commission on Aid to Higher Education of the State of Connecticut, SACRED HEART UNIVERSITY, ANNHURST COLLEGE, FAIRFIELD UNIVERSITY, ALBERTUS MAGNUS COLLEGE,

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The above-named chairman of the Commission on Aid to Higher Education of the State of Connecticut believes that this Court has jurisdiction of this appeal, and that the legal questions are substantial and of such national importance that they should be reviewed by this Court.

The three-judge court of the United States District Court for the District of Connecticut has held that the Higher

Educational Facilities Act of 1963, 20 U.S.C. § 1701-58 (1964) (The Act) authorizes grants to church related colleges and universities for construction of academic facilities and that neither the Act nor the grants thereunder impair the plaintiff's rights under the establishment clause or the free exercise clause of the First Amendment of the Constitution of the United States.

JURISDICTION

The jurisdiction of this Court is properly invoked under 28 U.S.C. § 1253. *Flast* v. *Cohen*, 392 U.S. 83 (1968).

QUESTIONS PRESENTED

1. Whether the Act authorizes grants to defendant church related colleges and universities for construction of academic facilities?

2. If so, whether the Act and grants thereunder impair the plaintiffs' rights under the establishment clause or the free exercise clause of the First Amendment of the Constitution of the United States?

STATEMENT

Appellants brought this action to enjoin the United States Secretary of Health, Education and Welfare and the United States Commissioner of Education from using Federal funds to finance the construction of facilities at defendant educational institutions pursuant to Title I of the Higher Education Facilities Act of 1963, 20 U.S.C. §§ 701-58 (1964) and for judgment declaring that such use was not authorized by the statute or, in the alternative, if authorized, was unconstitutional under the First Amendment of the United States Constitution. Joined as defendants were the chairman of the Commission on Aid to Higher Education of the State of

Connecticut and four colleges in Connecticut whose applications for funds under the Act have been approved by him as well as the other defendants, as required by the Act.

DISCUSSION

The decision below will have wide effect throughout the United States since there are church related colleges and universities in every state. Since such educational institutions are experiencing financial difficulties of crisis proportions, the problems raised are considerable and worthy of review by this Court.

Respectfully submitted,

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June 5, 1970